

**102 KAR 1:280. Service credit required for member to qualify for three (3) percent retirement factor.**

RELATES TO: KRS 161.620

STATUTORY AUTHORITY: KRS 161.310, 161.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.310 requires the Board of Trustees of the Teachers' Retirement System of the State of Kentucky to promulgate administrative regulations for the administration of the funds of the retirement system and for the transaction of business. KRS 161.620 authorizes the Board of Trustees to approve a three (3) percent retirement factor for years or fractional years of service in excess of thirty (30) years and establish conditions of eligibility regarding the type of service credit required for a member to qualify for this three (3) percent retirement factor.

Section 1. The three (3) percent retirement factor, subject to the conditions established in Sections 2 through 5 of this administrative regulation, shall be approved for any member who has accreted to his or her account with the Teachers' Retirement System of the State of Kentucky a minimum of five (5) years of service credit for either time actually served in a position covered by the Teachers' Retirement System of the State of Kentucky from which contributions were made under KRS 161.540 and 161.550, or service credit purchased under KRS 161.470(2), 161.545, 102 KAR 1:036, or 102 KAR 1:038. Service credit purchases, except as provided in this section, shall not be considered in determining whether the member has accumulated the minimum five (5) years of service credit.

Section 2. The three (3) percent retirement factor shall be applied only to service accreted to a member's account as a result of either time actually served in a position covered by the Teachers' Retirement System of the state of Kentucky from which contributions were made under KRS 161.540 and 161.550, or service credit purchased under KRS 161.545, 102 KAR 1:036, or 102 KAR 1:038, for years or fractional years of service that occur after the member has accumulated thirty (30) years of service credit as calculated under Section 3 of this administrative regulation. Service credit purchases, other than as provided in this section, shall not be subject to the application of the three (3) percent retirement factor. Notwithstanding any regulatory provision to the contrary, service credit earned as a result of employment in a position subject to Social Security shall not be subject to the application of the three (3) percent retirement factor.

Section 3. The service credit listed in subsections (1), (2), (3), and (4) of this section shall be considered, in the chronological order in which it was earned, for the purpose of calculating whether a member has accumulated thirty (30) years of service credit as a prerequisite to qualifying for the three (3) percent retirement factor, but shall not be subject to application of the three (3) percent retirement factor. Both full years and fractional years of service credit listed in subsections (1), (2), (3), and (4) of this section shall be considered. Other service credit shall not be considered for this purpose.

(1) The first thirty (30) or less years of service earned by the member as a result of either time actually served in a position covered by the Teachers' Retirement System of the State of Kentucky from which contributions were made under KRS 161.540 and 161.550, or service credit purchased under KRS 161.470(2), 161.545, 102 KAR 1:036, or 102 KAR 1:038, excluding service credit purchases other than as provided by this section.

(2) Service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, the United States Military Re-

serves and the Kentucky National Guard, purchased by the member under KRS 161.507, subject to preemption by the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994.

(3) Service credit purchased under KRS 161.515 as a result of out-of-state teaching and peace corps service, under KRS 161.547 as a result of legislative service, under KRS 161.548 as a result of regional community mental health and mental retardation service program service, and under KRS 161.549 as a result of federal head start agency service.

(4) Service credit in the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, and County Employees Retirement System that is earned as a result of contributions deducted from the member's salary while employed in a position covered by one (1) of these state administered retirement systems and that is recognized pursuant to the provisions of KRS 161.600(3). Service credit purchases under any one (1) of these state administered retirement systems shall not be considered, except as follows:

(a) The purchase of military service, including the commissioned corps of the Public Health Service, the United States Military Reserves and the Kentucky National Guard, that is credited to the member's account by each respective state administered retirement system shall be considered to the extent that this service, added to the service described in subsection (2) of this section, does not exceed six (6) years.

(b) The purchase of service credit in another state administered retirement system to the extent that it represents services provided and time actually served in a position of employment under a federal, state, or local government agency.

Section 4. Under no circumstances and notwithstanding any regulatory provision to the contrary, accrued sick and vacation leave, service credit that has previously been used in calculating and providing a retirement allowance in any publicly funded retirement system, excluding Social Security retirement allowances, and nonqualified service as described in KRS 161.5465 and 61.552(26), shall not be used or considered in any manner to qualify or otherwise entitle a member to the three (3) percent retirement factor for any year or fraction of a year, shall not be used or considered in any manner in calculating whether the member has accumulated thirty (30) years as a prerequisite to qualifying for the three (3) percent retirement factor, and shall not be used or considered in any manner in calculating whether the member has accumulated the threshold five (5) years of service credit described in Section 1 of this administrative regulation.

Section 5. The provisions of this administrative regulation shall apply only to those persons who initially retire with an effective retirement date of July 1, 2004 or later. (29 Ky.R. 1710; 2086; eff. 2-3-2003; Crt eff. 7-3-2019.)